

### **REMARKS**

The present Amendment is in response to the Office Action dated December 19, 2003 in reference to the above-identified application. The Examiner set a shortened statutory period for reply of three (3) months, making the present Amendment due by March 19, 2004. Filed concurrently herewith is a request for a two-month extension of time so that the present Amendment is due by May 19, 2004.

In the Office Action, claims 1-43 were pending. Applicants note with appreciation the allowance of claim 27 and further that claims 22, 25, 26, 36, 39, and 40 contain allowable subject matter. In the Office Action, the Examiner objected to Figure 1 of the drawings and objected to claims 5 and 30-43 on the basis of minor informalities. Claims 23 and 24 were rejected under 35 U.S.C. § 112, second paragraph. More substantively, claims 1-21, 28-35, 37, 38, and 41-43 were each rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. PAP 2003/0157721 to Turner et al.

Before addressing the substantive rejections to the claims, the Examiner will please note that the present Amendment is accompanied by a **Replacement Sheet** for the drawing sheet containing Figure 1. As indicated above, Figure 1 has been amended so that boxes 16, 18, 20, 22, and 42 are labeled as to function and Applicants believe that the Examiner's objections thereto have now been addressed.

Next, with respect to the claim objections, Applicants have amended claims 5, 30-35, 37-39, and 41-43 as suggested by the Examiner in the Office Action and believe that the claims, as amended, address the Examiner's concerns. Claims 36 and 40 were canceled due to other amendments to address the 35 U.S.C. § 102(e) rejections, as will be discussed below in greater detail.

With respect to the Examiner's technical rejections under 35 U.S.C. § 112 second paragraph, Applicants have addressed the Examiner's concerns by amending claim 23 so that it now only depends from claim 1. Accordingly, it is believed that the amendment to claim 23 also addressed the § 112 rejection of claim 24. Further, Applicants note that neither claim 23 nor claim 24 were substantively rejected. Accordingly, Applicants have provided new independent claim 51, which is substantially claim 23 rewritten into independent form and new claim 52, which depends therefrom and believe that both of these new claims are also in condition for allowance.

Turning now to the more substantive rejections, claim 1 has been amended to incorporate the recitation originally found in allowable claim 22 (now canceled). As a result, Applicants believe that claim 1 is now in condition for allowance as well as those claims depending therefrom, namely claims 2-5, 7-21, and 23-26. In addition, Applicants have added new dependent claims 48-50, which also depend from claim 1. Claim 48 recites that the method of claim 1 is for "investigating isomers of a material in a manner which allows different isomeric forms to be resolved." New claim 49 recites that the method "is for investigating different hydrates/solvates of a material." New claim 50 recites that the method is for "investigating different salts of a material." Applicants submit that based upon the amendment to claim 1, these new dependent claims, 48-50, are also in condition for allowance.

An amendment was also made to claim 30 to incorporate the recitation originally found in allowable claim 36 (now canceled). Accordingly, Applicants believe that claim 30 is now in condition for allowance as well as depending claims 31-35, 37, and 38.

Applicants also note for the Examiner's attention that independent claims 28 and 29 were canceled.

The Examiner's attention is next drawn to allowable claim 39. Applicants have amended this claim to remove its dependency from claim 30 and to further include the recitation of original claim 30. Claims 41-43 have been amended to change their dependency so that they now each depend from amended claim 39. Applicants believe that claim 39 and its dependent claims 41-43 are in condition for allowance

With respect to allowable claim 40, Applicants have canceled the claim and rewritten it into independent form as new claim 44, which incorporates the recitation of original claim 30. In addition, Applicants have added new dependent claims 45-47, which depend from new claim 44. New claims 45-47 recite essentially the same subject matter as original claims 41-43. Accordingly, Applicants believe that new claims 44-47 are in condition for allowance.

Applicants have also added new independent claims 53 and 54. Independent claim 53 is essentially allowable claim 25 rewritten into independent form while new claim 54 is essentially allowable claim 26 rewritten into independent form. Based upon the Examiner's indication that claims 25 and 26 contain allowable subject matter, it is believed that these claims are in condition for allowance.

Finally, Applicants have added new independent claims 55 and 56. New claim 55 essentially incorporates the recitations of original claims 1, and allowable claim 22 and also recites that the array of receptacles each has "a lower wall ... "each containing material .... to be investigated supported on a respective lower wall." Applicants submit that the addition of this element of the claim is not new matter and finds support in the

specification, for example, on page 13, lines 9-16. New independent claim 56 essentially incorporates the recitations of original claims 1, 6, and allowable claim 22. Claim 6 was canceled. Applicants respectfully submit that new claims 55 and 56 are also in condition for allowance.

Due to this Amendment, a new filing fee calculation is provided, as follows:

Maximum Total Claims This Amendment		Total Claims Previously Paid For	
50	-	43	= 7 x \$ 9.00 = \$63.00
Total Independent Claims Per This Amendment		Maximum Independent Claims Previously Paid For	
10	-	5	= 5 x \$43.00 = \$215.00
Additional Filing Fee Due			\$278.00

Accordingly, our check no. 18324 in the amount of \$278.00 is enclosed. The Commissioner is hereby authorized to charge any deficiency in the payment of the required fee(s) or credit any overpayment to Deposit Account No. 13-1940.

Based on the foregoing, Applicants submit that the present application is in complete condition for allowance, and action to that end is courteously solicited. If any issues remain to be resolved prior to the granting of this application, the Examiner is requested to contact the undersigned attorney for the Applicant at the telephone number listed below.

Respectfully submitted,


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**CERTIFICATE OF MAILING UNDER 37 C.F.R. 1.8**

I hereby certify that the foregoing **AMENDMENT (20 pages)**, and **Request for a two-month Extension of Time (2 pages) and Check No. 18324 in the amount of \$278.00** is being deposited with the United States Postal Service as first-class mail in an envelope addressed to Mail Stop Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 19<sup>th</sup> day of May, 2004.

  
Rebecca A. Gegick